

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
EUREKA DIVISION

JOHN M. REED,

Plaintiff,

v.

ALAMEDA COUNTY,

Defendant.

No. C 14-4784 NJV (PR)

ORDER OF DISMISSAL

This is a civil rights case filed pro se by a pretrial detainee incarcerated at Santa Rita Detention Facility. Plaintiff is awaiting trial for murder. He seeks to be released from custody and for compensation. The court ordered plaintiff to show cause why this case should not be dismissed pursuant to *Younger v. Harris*, 401 U.S. 37, 43-54 (1971). Plaintiff has filed a response.

Under principles of comity and federalism, a federal court should not interfere with ongoing state criminal proceedings by granting injunctive or declaratory relief absent extraordinary circumstances. See *Younger v. Harris*, 401 U.S. 37, 43-54 (1971). Federal courts should not enjoin pending state criminal prosecutions absent a showing of the state's bad faith or harassment, or a showing that the statute challenged is "flagrantly and patently violative of express constitutional prohibitions." *Younger*, 401 U.S. at 46, 53-54 (cost, anxiety and inconvenience of criminal defense not kind of special circumstances or irreparable harm that would justify federal court intervention; statute must be unconstitutional in every "clause, sentence and paragraph, and in whatever manner" it is applied). Abstention may be inappropriate in the "extraordinary circumstance" that (1) the party seeking relief in federal court does not have an adequate remedy at law and will

1 suffer irreparable injury if denied equitable relief, see *Mockaitis v. Harclerod*, 104 F.3d
2 1522, 1528 (9th Cir. 1997) (citing *Younger*, 401 U.S. at 43-44), or (2) the state tribunal is
3 incompetent by reason of bias, see *Gibson v. Berryhill*, 411 U.S. 564, 577-79 (1973).

4 Plaintiff contends that a police officer is lying, his appointed attorneys keep
5 changing, and they have not filed the appropriate motions. This is insufficient to warrant
6 federal court intervention. See *Perez v. Ledesma*, 401 U.S. 82, 83-85 (1971) (Federal
7 injunctive relief should not be used to test the validity of an arrest or the admissibility of
8 evidence in a state criminal proceeding, for example, absent extraordinary circumstances.)
9 Plaintiff has failed to meet the threshold to warrant such intervention nor has he shown that
10 he will suffer irreparable injury due to the lack of an adequate remedy in state court or that
11 the state court is biased.

12 CONCLUSION

13 1. The motion to proceed in forma pauperis (Docket No. 6) is **DENIED** because
14 plaintiff has already been granted such status.

15 2. This action is **DISMISSED** for failure to state a claim for the reasons set forth
16 above.

17 **IT IS SO ORDERED.**

18 Dated: December 12, 2014.



NANDOR J. VADAS
United States Magistrate Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
EUREKA DIVISION

JOHN M. REED,
Plaintiff,

No. 1:14-CV-4784 NJV
CERTIFICATE OF SERVICE

v.

ALAMEDA COUNTY,

I, the undersigned, hereby certify that on December 12, 2014, I SERVED a true and correct copy the attached by placing said copy in a postage paid envelope addressed to the person listed below, by depositing said envelope in the U.S. Mail.

John M. Reed
AYG661
Santa Rita Detention Facility
5325 Broder Ave.
Dublin, CA 94568

/s/ Linn Van Meter

Linn Van Meter
Administrative Law Clerk to
the Honorable Nandor J. Vadas